BOMBAY ACT No. VI OF 1862.[1]

[THE AHMEDABAD TALUQDARS ACT, 1862.][1]

[*14th October, 1862.*]

Repealed in part, by Act 12 of 1876 and by Bom. 3 of 1886.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act for the amelioration of the condition of taluqdars in the Ahmedabad Collectorate, and for their relief from debt.

Preamble.

WHEREAS the lands held in the zila of Ahmedabad in the Province of Gujarat under the title of taluqdari estates are now only held on lease hold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the taluqdars are in embarrassed circumstances and have borrowed money on the security of their landed estates; and whereas such of the said landed estates as are of the taluqdari tenure aforesaid could not and cannot be lawfully charged, encumbered or alienated; and whereas it is expedient to enable the said taluqdars to effect a settlement of their debts and liabilities; It is hereby enacted as follows :—

Power to make declaration vesting management of estates of taluqdar in officer appointed by Provincial Government.

1. Whenever it shall appear to the [2][Provincial Government] that any taluqdar in the zila aforesaid is subject either personally or in respect of his landed estates of any description of tenure to debts or liabilities equal to or exceeding five times the average rents, profits and other annual income derived by the taluqdar from his estates aforesaid during the previous five years after deducting thereout the land-tax and other dues of Government, it shall be lawful for the [2][Provincial Government] to make a [3]declaration vesting the management of the said estates in an officer[4] or officers who shall then be appointed by the [2][Provincial Government] in that behalf, and the said declaration shall be published in the [5][Official Gazette].

After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.

2. From and after the publication of said declaration as aforesaid, all suits or judicial proceedings for or in respect of debts or liabilities in the first section above-mentioned, other than debts due or liabilities incurred to the Crown or Government, pending before or under appeal from any of the Civil Courts in the said Presidency, shall be, and are hereby declared to be permanently stayed, and no further prosecution thereof shall be permitted and all writs, processes, executions or attachments for or in respect of such debts and liabilities shall forthwith cease and be raised.

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[1] No Statement of Objects and Reasons was published. For the Bill as introduced, *see Bombay Government Gazette*, 1862, Supplement, p. 82; for Report of the Select Committee, *see ibid*, p. 107, and for Proceedings in Council, *see ibid*, pp. 82, 107 and 115.

As to the validity of Bom. 6 of 1862, so far as it purports to affect the High Court of Judicature at Bombay, *see* the Broach and Kaira Incumbered Estates Act, 1877 (14 of 1877), s. 39.

The short title was given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).

[2] The words "Provincial Government" were substituted for the words "Governor in Council by the Adaptation of Indian Laws Order in Council.

[3] It is enacted in the Gujarat Taluqdars Act, 1888 (Bom. 6 of 1888), s. 34, that no new declaration shall be made under s. 1 of Bom. 6 of 1862 at any time after six months from the date on which the former Act came into force (*i.e.*, the 25th March, 1889.)

[4] As to the investment of the Taluqdari Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881 (21 of 1881), s. 7, with powers under this section, *see* Act 14 of 1877, s. 40, as amended by that Act.

[5] The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Power to remove mortgagee or encumbrancer from possession of estates of taluqdar.

3. From and after the publication of such declaration, the said officer or officers shall have power, without resorting to any Civil Court, to remove from possession of the landed estates of the taluqdar of any description of tenure, or any part thereof, any mortgagee or other encumbrancer who may be in possession of the same, without prejudice to such mortgagee or encumbrancer bringing his claim under sections 8 and 9 before the officer or officers appointed for the management of the said estates.

After declaration, taluqdar not liable to arrest in respect of debts other than debts due to Government.

4. From and after the publication of such declaration as aforesaid, the taluqdar, the subject of such declaration, shall not be liable to arrest, nor shall his personal estates of any description whatsoever be liable to seizure, attachment or sale under any process, decree, judgment or execution of the Civil Court of the Presidency of Bombay for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or Government.

During management, estates exempt from civil process in respect of debts and liabilities aforesaid.

5. From and after the publication of such declaration as aforesaid, the landed estates of such taluqdar of any description of tenure and the rents, profits and income thereof shall, during the period of the management thereof by the said officer or officers, be wholly exempt from seizure, attachment or sale under or by virtue of any process, decree, judgment or execution of any Civil Court of the Presidency of Bombay for or in respect of the debts and liabilities aforesaid, other than debts due or liabilities incurred to the Crown or Government.

Power to make and alter rules.

6. It shall be lawful for the [1][Provincial Government] to make rules for the purpose of carrying this Act into effect, and from time to time to alter, vary or amend such rules as necessity may arise.

Managing officer to receive rents, profits and income;

and pay for support of taluqdar and family, expenses of management and settlement of debts and liabilities in accordance with rules.

7. The said officer or officers shall, during the continuance of his or their management of the said estates, receive the whole of the rents, profits and income thereof, and shall defray thereout land-tax and other debts due or liabilities incurred, or hereafter respectively to grow due or to be incurred, to the Crown or Government, and pay to the taluqdar such annual sum only as shall appear to the [1][Provincial Government] requisite for the decent support of the taluqdar and his family, and any balance remaining after such payment as aforesaid shall be applied in discharge of the expenses of such management as aforesaid and in liquidation or settlement of the debts and liabilities to which at the time of the publication of the said declaration the taluqdar is subject either personally or in respect of his landed estates of any description of tenure, in accordance with the rules alluded to in the last preceding section.

Managing officer to publish notice to claimants against taluqdar to notify claims.

Publication of copies of notice.

8. The said officer or officers shall publish in the [2][Official Gazette] a notice in English and Gujarathi, calling upon all persons having claims against the said taluqdars or their said landed estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such officer or officers within three [3]* months' time from the time of such notice in the Gazette, and the said officer or officers shall, before or contemporaneously with such publications in the Gazette, cause copies of such notice to be exhibited at the mamlatdars' kachahris in the said zila and in such place or places as to such officer or officers shall seem fit and as may be directed by the said rules.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*", *ibid.*

* [3] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

9. Any debt or liability of the taluqdar other than as aforesaid, to which he is subject, either personally or in respect of the said landed estates, existing at the time of the said declaration by the [1][Provincial Government] not duly notified to the said officer or officers within the time and in the manner in the last preceding sections specified, shall and is hereby declared to be forever barred : Debt or liability not notified to be barred.

Provided always that, upon proof being given to the satisfaction of such officer or officers of the inability of the claimant to have complied with the provisions of this and the last preceding sections, it shall be lawful for the said officer or officers to entertain and admit such claim within the further period of nine [2]* months from the expiration of the above-mentioned period of three months. Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.

10. The said officer or officers shall as early as possible prepare and submit to the [1][Provincial Government] a scheme for the settlement of the taluqdar's debts and liabilities, and such scheme, when approved by the [1][Provincial Government], shall be carried into effect. Scheme for settlement of taluqdar's debts and liabilities.

The amount of any debt or liability as fixed in such approved scheme shall not be liable to increase. Amount of debt fixed in scheme not to be increased.

Any debt or liability disallowed by such officer or officers shall, if such disallowance be approved by Government, be and it is hereby declared to be forever barred. Bar of debts disallowed.

11. It shall be lawful for the [1][Provincial Government] to empower the officer or officers aforesaid to raise a fund to be applied to the settlement of the debts and liabilities of the taluqdar by assigning the whole or a portion of his landed estates of any description of tenure to be held and enjoyed, for a period or periods not exceeding twenty years from the publication of the declaration aforesaid, by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said estates as may appear expedient; but in case of such sale the consent of the taluqdar and of his next heir, if the latter be of age, shall first be obtained. Power to authorise raising of fund for settlement of debts and liabilities.

12. Any debt or liability, except as hereinbefore excepted, which may be incurred by the taluqdar, either personally or in respect to his said landed estates or any part thereof, during the period of such management as aforesaid, shall not be enforceable in any manner whatever, either during or subsequently to such period of management, against his said landed estates or any part thereof, and it shall not be competent for the taluqdar during the said period of management to charge, encumber, sell or alienate his said landed estates or any part thereof, and such charge encumbrance, sale or alienation shall be null and void. Debt or liability incurred by taluqdar during management not enforceable against estates. Incompetency of taluqdar to charge or alienate.

13. It shall be lawful for every officer or officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents exhibits, pleadings, books, accounts, letters, petitions, papers or writings filed in any of the suits mentioned in the second section of this Act, or relating to the debts or liabilities of any taluqdar whose landed estates are brought under such management as aforesaid, in the custody or control of any Civil Court, Civil Courts to give up writs, decrees, papers, etc., when required.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

or in the custody or control of any Judges, Judge, Assistant Judge, officer or person connected with such Court, and upon notice being given in writing by such officer or officers to such Civil Court or to any Judges, Judge, Assistant Judge, officer or person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings in the said notice mentioned shall be immediately given up to the said officer or officers appointed under this Act, in the manner directed by the said notice, any act, usage or custom to the contrary in any wise notwithstanding.

Power to officer to take evidence, and compel production of books, etc.

14. It shall be lawful for any officer or officers appointed under this Act to summon witnesses and to take evidence, [1]* * * * * * *, and it shall also be lawful for the said officer or officers to compel the production of books, accounts, papers, deeds or other documents, and to inflict a fine not exceeding rupees one hundred for disobedience to any sanad or order made under this section.

Powers of managing officer for realizing rents and profits.

15. The officer or officers appointed for the management of the landed estates of any taluqdar under this Act shall have, for the purpose of the realization and recovery of the rents, profits and income of such landed estates, the same powers as a Collecter possesses under the Regulations or Acts now or hereafter in force for the realization and recovery of land-revenue due to Government.

Management limited to twenty years and, at its expiration, claims, etc., to be considered settled.

16. The management of the landed estates of any taluqdar by such officer or officers as aforesaid shall not extend beyond the period of twenty years, to be calculated from the first publication of such declaration as aforesaid in the [2][Official Gazette], and at the expiration of such management whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the taluqdar nor his heirs nor representatives, nor his ,her nor their estates, whether moveable or immovable, or any part thereof shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Power to appoint new officers.

17. It shall be lawful for the [3][Provincial Government] from time to time to appoint new officers to carry this Act into effect, and all such officers shall have the same powers as the officer or officers first appointed.

Powers for enforcing payment of fines.

18. Officers appointed under this Act shall have the same powers for enforcing the payment of fines imposed under this Act as are given to Courts by [4]section 61, Act XXV of 1861.

Suits cognizable by Civil Courts.

19. Notwithstanding anything to the contrary in this Act, it shall be lawful for the Civil Courts to entertain and dispose of suits relating to the succession to, or rights of co-parcenary in, or rights of persons claiming maintenance out of, any landed estate or estates brought under the operation of this Act:

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[1] The words "upon oath or solemn affirmation and to administer oaths or solemn affirmations to persons whom he or they may admit to give evidence and any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner and to suffer if convicted the same punishment as if he or she had committed wilful and corrupt perjury" were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" *ibid.*

[4] *See* now s. 386 of the Code of Criminal Procedure, 1898 (5 of 1898).

Provided always that neither the Crown nor Government, nor any officer or officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such officer or officers. Indemnity to Crown, Government or managing officer.

20. From and after the expiration of the period of management of the estate of any taluqdar, whether such period extend to, or be less than, twenty years, the taluqdar shall be the absolute proprietor of his said landed estates as regards succession to, and possession, management and transfer of, the same, subject to such land-tax as the [1][Provincial Government] may be pleased to reserve and all usual remedies for the recovery thereof. Proprietorship of taluqdar after termination of management.

21. [2]* * * * In this Act, [2]* * * * unless there be something in the subject or context repugnant to such construction, [2]* * * * *. Interpretation-clause.

(*1*) the term "Civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not.

(*2*) *and* (*3*) [*Rep. Bom. III of 1886.*]

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "the following words and expressions" before the word "In", the words "shall have the meaning hereby assigned to them," after the word "Act", and the words "(that is to say)" after the word "construction" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).